Joint Statement in Response to State “Smart Contracts” Legislation

In 1999, the Uniform Law Commission completed the Uniform Electronic Transactions Act (UETA), which has been enacted in 47 states, the U.S. Virgin Islands and District of Columbia. In 2000, Congress enacted the Federal Electronic Signatures in Global and National Commerce Act (ESIGN, 15 U.S.C. 7001, et seq.). These statutes, operating cooperatively, assure that electronic records, electronic signatures, and contracts made or memorialized in electronic formats enjoy the same legal status as pen and ink records, signatures, or contracts. The statutes are technology-neutral, meaning that they validate records, signatures or contracts without regard to the specific electronic technologies employed. The federal law, ESIGN, explicitly states that any state law according a legal status or enforceability to a specific technology is preempted. UETA and ESIGN already ensure:

- If a law requires a signature, an electronic signature satisfies the law.
- If a law requires a record to be in writing, an electronic record satisfies the law.
- A contract, signature, or related record may not be denied legal effect or enforceability solely because it is in electronic form.
- A contract may not be denied legal effect solely because an electronic record was used in forming the contract.

Cryptographic signatures fall squarely within the definition of “electronic signature” set forth in UETA and ESIGN. Thus, if blockchain technology or smart contract code is used to create or effect an electronic signature, electronic record, or electronic contract, UETA and ESIGN ensure it is valid. Therefore, legislation seeking to define blockchain technology or smart contracts or to ensure smart contracts are legally enforceable, while well-intentioned, is harmful for the following reasons:

1. **Redundancy.** Redundancy is confusing, unnecessary, and potentially harmful if courts determine the legislature intended a different effect.

2. **Inconsistency.** Bills introduced in California, New York, Illinois, Nebraska, and Tennessee this year contain definitions of blockchain and smart contract inconsistent with each other (in some cases) and the definition published by the Chamber of Digital Commerce. The potential for a network of conflicting state laws is obvious.

3. **Federal Preemption.** ESIGN provides that any state law giving special effect to a specific technology is preempted. Moreover, conflicting state laws provide additional incentive for Congress to preempt those laws to remove barriers to interstate commerce.

Because existent laws already provide a sufficient legal foundation for the enforcement of these types of agreements, we believe additional state legislation will only serve to create inconsistent and redundant state laws, hindering innovation, and are opposed to such efforts.

Patricia Fry  
Former Chair, Uniform Electronic Transactions Act Drafting Committee

Perian Brogy  
Chamber of Digital Commerce

Electronic Signature and Records Association
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<tr>
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<td>Daniel W. Jansen</td>
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FORMERLY: Southwest Diagnostic Laboratories
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Douglas N. Christiansen, DDS, Inc.
Keith Y.K. Wong, OD
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Justin D Miller  GSG Consultants
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Faculty Benefits & Portfolio Advisors, LLC
BF Enterprises, LLC
Cockfield Consultants LLC
Vishay Electrofilms
Bloq
LaSuisse Co.
Medicine Man Inc.
One Button Control
TriLab Investments, LLC
Barnett Brothers Partnership
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PDA Operations, Inc.
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Northern Arizona Mortgage Corp.
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RSM US LLP
Weeded prime
Joshpe Mooney Paltzik LLP
New World Investor
Atow
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Winter Law Firm
Origin Code Academy
Engatech, Inc.
Village Holdings LLC
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Pc Systems
Help Yourself Designs
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FPL Ecommerce Nico Fritschi

Nicole Pate
Acap

Nigel Steel
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Robert Eric King III Inc.

Robert
New pinnacle

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(was) Robert A Gilmour -- Architect

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Robert B Weber MD FACC, A Prof. Corp.

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NameNotProvided

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Sunny Day Productions

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Tom Elliott  Marketconnexus, LLC
Tom Monahan  GrabBarHandyman.com
Tom O'Meara  Searing Properties
Tyler Milligan  Milligan Partners
Uwe Paschke  Uwe Paschke Limited
Veronica Lopez-Moore  Warehouse 13
Vicky Raff  Raff & Company LLC
Vincent Ehrenberg  Vintopper
Vincent Partsch  A Step Above Handy Man Service
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Vishal Patel  Community Psychiatry
W D Lucas  Sigma Properties
Wade Williams  LMS Inc.
Walter Frame  Oakrail
Watt gregory  Kutak Rock LLP
Wayne Harter  HDC Motor Company
Wayne Lynn  Under the Palms
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<tbody>
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<td>Wendy Kay</td>
<td>ImagzByWendyK</td>
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<tr>
<td>Will Zhang</td>
<td>OneChain Capital</td>
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<tr>
<td>William Crouse</td>
<td>Apogee Strategies, LLC</td>
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<td>William Forrest Peavey</td>
<td>self employed Realtor</td>
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<td>William G Huitt</td>
<td>Valdosta State Univ</td>
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<td>William J Marion, DO</td>
<td>Mountain View Family Medicine, LLC</td>
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<td>Rumer Enterprises LLC</td>
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<td>william squier</td>
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<td>Barbara A Nelson</td>
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